



Legal Update

July 2019

The SJC holds that the charge of interference of a police officer's duties is a common-law crime in Massachusetts. However, there are restrictions with this charge and it requires proof that the defendant physically acted to block or interfere with the lawful duties of a police officer!

Commonwealth v. Adams, 482 Mass. 514 (2019): Tyngsboro Police suspended Mark Adam's Class A license to carry firearms after receiving a report from the Department of Children and Families that the defendant assaulted his wife while his son was home. The police went to the defendant's home to serve him with a written suspension notice and to retrieve his firearms and ammunition. When Sergeant Charles Melanson knocked on the door, the defendant stepped outside and became argumentative with the police. The defendant began yelling and refused to turn over his firearms and said he wanted to call his lawyer. The defendant also told his wife not to allow the police inside the house. Sergeant Melanson put his hand on the front door and held it shut as the defendant attempted to go inside the house. Another sergeant spoke to the defendant's wife inside the house while the defendant remained outside. The defendant continued to yell that he would not give up his guns nor would he provide the combination to his gun safe. When the defendant tried to re-enter his house, the police told him to stop. One of the officers tackled and arrested the defendant after he quickened his pace. The police forcibly opened the defendant's gun safe and confiscated the firearms.

The defendant was charged with failure to surrender firearms (G.L. c. 269, § 10(i)), disorderly person (G.L. c. 272, § 53), resisting arrest (G.L. c. 268, § 32B), and the common-law crime of interference with a police officer. The defendant filed a motion to dismiss all charges due to lack of probable cause. The defendant argued that he had a right, pursuant to G. L. c. 140, § 129D, to maintain possession of his firearms pending an appeal from the suspension of his firearm license. The motion to dismiss was denied.

The defendant then filed a motion to suppress the seizure of his firearms. The motion to suppress was allowed after a judge determined that the police unlawfully entered the defendant's home without a warrant. The judge found that no exception to the warrant requirement authorized the police to enter the defendant's home, forcibly open his gun safe, and confiscate his firearms and ammunition. The Commonwealth dismissed the charge for failure to surrender firearms although the other charges remained. After trial, the jury found the defendant not guilty on the charges of disorderly conduct and resisting arrest but guilty on the common-law crime of interference with a police officer. The defendant appealed his conviction and argued that pursuant to G. L. c. 140, § 129D; the order immediately to surrender his firearms violated the Second Amendment to the United States Constitution and the evidence was insufficient to prove interference with a police officer. The SJC transferred the case from the Appeals Court and heard the appeal.

Conclusion: The SJC concluded that interference with the lawful duties of a police officer is a common-law crime in Massachusetts. However, the facts in this case were insufficient to sustain a conviction against the defendant for this charge.

The offense of interference with a police officer requires the Commonwealth to prove four elements:

- (1) The officer was engaged in the lawful performance of a duty**
- (2) The defendant physically performed an act that obstructed or hindered the officer's performance of that duty;**
- (3) The defendant was aware that the officer was engaged in the performance of his/her duty; and**
- (4) The defendant intended to obstruct or hinder the officer in the performance of the duty.**

The SJC found that the illegal acts of obstructing or hindering the lawful duties of a police officer is a common-law crime, albeit subject to carefully constructed limitations to avoid criminalizing constitutionally protected activities.

The charge of interference with a police officer's duties requires proof of a physical act that a person obstructs or hinders a police officer in the lawful performance of his or her duty. It may also include a "threat of violence against the officer, which reasonably would have the effect of obstructing or interfering with the officer in the performance of a lawful duty." See *Commonwealth v. Joyce*, 84 Mass. App. Ct. 574, 578 (2013) (interpreting willful interference with a firefighter statute to require intent to interfere). See, e.g., *Gay v. State*, 179 Ga. App. 430, 431-432 (1986) (evidence of obstruction sufficient where defendant threatened to get his shotgun and "blow holes in the patrol car" of officer who had called for truck to tow defendant's vehicle); *State v. Mattila*, 77 Or. App. 219, 221, 223 (1986) (obstructing governmental function established by evidence that defendant asked his mother, in loud voice, whether he could shoot deputies who had approached house to serve eviction papers).

The SJC found that there was insufficient evidence to establish that the defendant in this case physically obstructed or hindered the police in the performance of their lawful duties. Here, the defendant's refusal to surrender his firearms and ammunition may have violated G. L. c. 269, §10(i), due to his noncompliance with the demand that he surrender his firearms. However, the defendant's refusal cannot form the basis of a charge of common-law interference with police officers. The defendant was upset and argumentative and insisted that he would not comply with the police order. He repeatedly demanded to contact his lawyer, and told his wife not to allow the police to enter their home. Although the defendant was belligerent, there was no evidence to establish that the defendant physically obstructed or hindered the officer in the performance of a lawful duty. Additionally, the defendant's protestations did not rise to the level of threats of violence against a police officer, which reasonably would have the effect of obstructing or interfering with the police in the performance of a lawful duty. Based on the above facts, the SJC reversed the defendant's conviction due to lack of evidence that the defendant had interfered with the lawful duties of a police officer.